

# Motion to suppress grant or denial

[Law](#), [Crime](#)



The extent to which police may stop and frisk suspicious people who are in public and may be armed and dangerous has been of the issue in many cases, (e. g. Terry v. Ohio.) The defendant was convicted of carrying a concealed weapon. The court ruled that police may stop and frisk such people without probable cause if the police have a reasonable suspicion that the people pose a threat to public safety. The opinion of the Court., “ This case presents serious questions concerning the role of the Fourth Amendment in the confrontation on the street between the citizen and the policeman investigating suspicious circumstances. However, in our case involving the possession of an illegal substance, the seizure was not a follow up to a search incident of a lawful arrest.

“ Constitutional flaws in the methods used to arrest, search, and interrogate may be uncovered, and the defense attorney can also establish a basis for a motion to suppress and therefore bar crucial evidence from a subsequent trial.” The “ War on Drugs” has led to the development of aggressive or innovative, depending on your point of view, police tactics. The Supreme Court has developed three broad categorizations addressing the “ encounters” between citizens and police. The overall intent is to protect the right of the citizens to be secure against unreasonable searches and seizures. “ The Constitution does not permit police officers, without probable cause or reasonable suspicion, to restrain the liberty of American citizens.” (Terry v. Ohio, 392 U. S. 1, 19 n. 16 (1968.))

Granted in a police department, law enforcement officials must simultaneously respond to a myriad of situations. An officer may enter the

residence to find no burglar or any other person and numerous marijuana plants belonging to the absent homeowner. As in either of these cases, happenstance yields an illegal product. Generally, officers must make their initial warrantless entry into the home or commercial building immediately after realizing an emergency is at hand. Under some circumstances though, courts have allowed police to delay their initial entry. " In these cases, the police may be facing either an ongoing emergency, such as kidnapping or gathering facts to determine whether assistance is truly needed, such as in a missing person's case. If there is a reasonable explanation for the officer's delay, the entry, even though delayed, will most likely be construed as lawful under the emergency exception."

Sam Wardlow, a " middle-aged African-American male," was standing in front of a building holding a bag...he ran before an arrest was made and a gun was confiscated. " Should run from police in " high crime areas" be viewed differently from running from police in " low crime areas"? If so, are there various shades of Fourth Amendment protections throughout the country, depending upon which neighborhood you live in?. An additional indirect case that correlates the two " passenger" example, a defendant's motions to suppress confiscated drugs, *State v. Kaluna*, was granted on the ground that it had been illegally seized. The state supreme court affirmed this suppression order. Following an arrest for robbery, " the defendant was told to strip for a search. She then reached into her brassiere and pulled out a piece of folded tissue. Handing it to the matron, she claimed that this was all that she had. The matron unfolded the tissue and found a barbiturate.

District Court judge Santiago Campos granted the motion to suppress the physical evidence and statements. This ruling exemplifies the two “passenger” cases fact for fact. The initial encounter between the passengers and the narcotics agent was “an involuntary and nonconsensual seizure” in violation of the Fourth Amendment. “In a public compartment on an Amtrak train with his wife and infant son...DEA Special Agent boarded the train... identified himself as a police officer, blocked Zapata's egress from his seat, and asked if he could search Zapata's bags, Zapata seemed to agree. Zapata stood up, took down the bags, and opened them...several kilograms of cocaine.” For the press, it is one of the most difficult situations, a hearing on a motion to suppress evidence. “If the report of a confession reaches them, trial delays are almost certain. If the defense asks for a change of venue the judge will be put under additional strain, particularly if he decides to go ahead with the jury selection process.”

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9. See United States v. Bute, 43 F. 3d 531, 537-39.
10. Cir. 1994)stressing the importance of " immediacy" requirement).
11. See, e. g., U. S. v. Echegoyen 799 F. 2d 1271 (9th Cir.
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